



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-1370 FAX (603) 271-1381



September 26, 2002

Timothy Dunne
Dunne's Enterprises LLC
17 Long Avenue
Nashua, New Hampshire 03064-1318

CERTIFIED MAIL (7099 3400 0003 0687 4695)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

Re: Non-Conforming Open Burning

Dear Mr. Dunne

On June 7, 2002, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified that non-conforming open burning had occurred on Prospect Woods Road in Holderness, New Hampshire ("the Property"). On June 10, 2002, DES conducted an inspection at the Property and investigated the complaint to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. DES has determined that Mr. Timothy Dunne is the owner of Dunne's Enterprises LLC, formerly Dunne's Demolition ("Dunne's"), and that Dunne's was responsible for violations at the Property.

Dunne's was hired to remove and demolish a building roof of approximately 100 feet long and 32 feet wide. On June 7, 2002, personnel from the Department of Resources and Economic Development contacted DES concerning an open burning incident at the Property. During the June 10, 2002 inspection of the Property, DES personnel observed a large quantity of non-conforming charred and burned materials in a burn pile at the Property. The materials included: wafer board, shingles, assorted metal, and one aerosol can. While the Holderness Fire Department identified Dunne's as the party responsible for the fire, Dunne's had not received any approval for open burning or obtained any burn permits.

The purpose of this letter is to notify you of the violation discovered during the June 10, 2002 inspection, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

Env-A 1001.03, Permissible Burning, outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.03 (c)(2) allows periodic on-site burning of brush by the landowner, Env-A 1001.03 (c)(3) allows commercial burning of brush, provided that no other disposal method, such as chipping, can be utilized, and Env-A 1001.03 (c)(4) allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000. The Holderness Fire Department identified that Dunne's was responsible for burning non-conforming materials at the Property.

- Env-A 1001.03 (c)(4) further provides that the burning of untreated wood from the construction or demolition of a building may only be conducted in an area specified and approved by officials having jurisdiction over open burning. Dunne's did not receive approval from a responsible official for the open burning at the Property.
- Env-A 101.54 defines brush as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.
- Env-A 101.286 defines untreated wood as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Mr. Joseph Ritz at (603) 271-1391, Compliance Bureau, Air Resources Division. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Encs: Env-A 1001, *Open Burning*

cc: R. Kurowski, EPA
R. Scott, NHDES-ARD
G. Rule, DES Legal Unit
S. Huss, Holderness Board of Selectmen
R. Mardin, Holderness Fire Dept.
B. Boyd, DRED
C. McGary, NHDES-WMD
Enforcement File